

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

10 JOHN E. PIMENTEL, *et al.*,

11 Plaintiffs,

12 v.

13 COUNTRYWIDE HOME LOANS, INC.,
14 *et al.*,

15 Defendants.

Case No. 2:10-CV-02125-KJD-CWH

ORDER

16 Before the Court is Defendant Bank of America, N.A.'s Motion to Dismiss (#15). Plaintiffs
17 filed an Opposition to this Motion (#31) and Bank of America ("BOA") filed a Reply (#32).

18 Plaintiffs filed this action on October 28, 2010 in state court. BOA removed this action here
19 on December 7, 2010. BOA filed its Motion to Dismiss on July 7, 2011. Shortly thereafter,
20 Plaintiffs John G. Pimentel and Tina Pimentel filed a Notice of Bankruptcy (#16) and sought to have
21 the action stayed. On July 25, 2011, Plaintiffs' attorney filed a Motion to Withdraw which was
22 granted on September 23, 2011 (#28). The Court denied the request for stay (#18).

23 On January 5, 2012, the Court issued an Order (#30) stating that it would dismiss this action
24 pursuant to Local Rule 7-2 if Plaintiffs did not file an opposition to the Motion to Dismiss by January
25 19, 2012. On January 18, 2012, Plaintiff John E. Pimentel filed an Opposition to the Motion to
26

1 Dismiss informing that Court that he has also filed for bankruptcy and “[o]pposes the Motion to
2 Dismiss pending the findings of the US Bankruptcy Court in this matter.” (Oppo. at 2)

3 As the Court stated in its January 5, 2012 Order (#30) the automatic stay provision under the
4 Bankruptcy Code does not apply to lawsuits prosecuted by the party who has filed for bankruptcy.
5 In re White, 186 B.R. 700, 704 (9th Cir. 1995). Further, Plaintiff’s Opposition fails to provide points
6 and authorities in opposition to BOA’s Motion to Dismiss. As the Court has previously indicated,
7 Local Rule 7-2 provides that failure to provide points and authorities in opposition to a motion
8 constitutes consent to the granting of that motion. BOA’s Motion appears to be supported by good
9 cause.

10 Accordingly, **IT IS HEREBY ORDERED THAT** Defendant Bank of America, N.A.’s
11 Motion to Dismiss (#15) is **GRANTED**.

12 DATED this 5th day of March 2012.



13
14
15 Kent J. Dawson
16 United States District Judge
17
18
19
20
21
22
23
24
25
26